

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING STUDENT SPECIAL NEEDS FUNDING
Effective ~~July 2, 2020~~ 2022**

1.00 AUTHORITY

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-15-2202, 6-20-401 et seq., 6-20-2301 et seq., and 6-48-101 et seq., and ~~Acts 936 and 1044 of 2017, Act 243 of 2018, and Acts 532 and 1083 of 2019~~ Act 322 of 2021.
- 1.02 These Rules shall be known as the Arkansas Division of Elementary and Secondary Education (“Division”) Rules Governing Student Special Needs Funding.

2.00 PURPOSE

- 2.01 The purpose of these Rules is to distribute student special needs funding and define the allowable expenditures of those funds.

3.00 DEFINITIONS

- 3.01 “Alternative Learning Environment (ALE)” is a student intervention program consisting of an alternate class or program within a public school or school district that:
- 3.01.1 Affords all students an environment that seeks to eliminate traditional barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation; and
- 3.01.2 Is not a punitive environment but is one that is conducive to learning.
- 3.01.3 For determination of funding only, an ALE is not a separate school even if the Division assigns the ALE a separate local education agency number.
- 3.02 “Alternative Learning Environment Hybrid Program” is a program that provides ALE services through a combination of on-site and distance learning.
- ~~3.023~~ “Average Daily Membership (ADM)” is the total number of days of school attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

- 3.023.1 In those instances in which the ADM for fewer than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.
- 3.023.2 As applied to these Rules, students who may be counted for ADM are:
- 3.023.2.1 Students who reside within the boundaries of the school district, are enrolled in a public school operated by the school district, and are enrolled in a curriculum that fulfills the requirements established by the State Board of Education (State Board) under the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 3.023.2.2 Legally transferred students living outside the school district, but who are attending a public school in the school district under a provision of the Arkansas Code and are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts.
 - 3.023.2.3 Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 3.023.2.4 Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;
 - 3.023.2.5 Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement, even if they are not enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or
 - 3.023.2.6 Any other circumstance allowed by law.
- 3.034 "Classroom Teacher" is an individual who is required to hold a teaching license from the Division and who is working directly in instruction with students in a

classroom setting for more than seventy percent (70%) of the individual's contracted time; a guidance counselor; or a librarian.

- 3.045 “Community Eligibility Provision (CEP) District” is a school district that is identified by the Division as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a).
- 3.056 “Community Eligibility Provision (CEP) District Base Year (Base Year)” is the last school year for which individual student free or reduced-price meal eligibility determinations were made.
- ~~3.06 “Coordinated School Health Coordinator” is an individual that coordinates the implementation of the Whole School, Whole Community, Whole Child (WSCC) model components, facilitates the Wellness Plan, and has a minimum of a bachelor’s degree (master’s degree preferred) in education, nursing, health services administration, social services, psychology/mental health services, or nutrition. The coordinator will be in addition to other school health staff or positions.~~
- ~~3.07 “Coordinated School Health (CSH)” is an effective system designed to connect health (physical, mental/emotional, and social) with education. This coordinated approach improves students’ health and their capacity to learn through the support of families, communities, and schools working together. The CSH approach consists of ten major components. Although these components are listed separately, it is their composite that allows CSH to have significant impact. The ten components include: health education, physical education and physical activity, health services, nutrition environment and services, social and emotional school climate, counseling, psychological, and social services, physical environment, employee wellness, family engagement, and community involvement.~~
- 3.087 “English Language Learners (ELL)” are students identified as not proficient in the English language based upon approved English proficiency assessment instruments, which measure proficiency in and comprehension of English in reading, writing, speaking, and listening.
- ~~3.098~~ “Eligible Alternative Learning Environment (ALE)” is an Alternative Learning Environment (ALE) approved by the Division pursuant to Section 4.05 below as being in compliance with Ark. Code Ann. § 6-48-101 et seq. and these Rules.
- 3.1009 “Eligible ALE Student” is a student who:
- 3.1009.1 Meets the qualifications of Section 4.02;
 - 3.1009.2 Is enrolled in an eligible ALE program; and

3.4009.3 Has been enrolled in an eligible ALE for a minimum of twenty (20) consecutive days per school year except as provided in Section 4.06.3.3.

3.11 ~~“Experience-based Field Trip” is a student field trip which culminates an academic content unit directly tied to the Arkansas Academic Standards that includes evidence-based activities.~~

3.12 ~~“General Description” includes needs assessment/process results, descriptions of positions, programs, other expenditures, and program evaluation.~~

3.13 ~~“Human Service Worker” is someone who shall collaborate and provide information, resources, services, and referrals, to the district, local education agency, parents, and students in a variety of activities, trainings, and assessments concerning the physical, mental/emotional, and social health of the child.~~

3.1410 “Intervention Services” are activities within or outside a school that will eliminate traditional barriers to learning.

3.15 ~~“Licensed Mental Health Professional (LMHP)” is someone who holds a master’s degree from a graduate program in the field of professional mental health services. They may render mental health care services to individuals, families, or groups. LMHPs use therapeutic techniques to define goals and develop treatment plans aimed toward prevention, treatment, and resolution of mental and emotional dysfunction. Mental Health Professionals are licensed by the specific state boards corresponding with their licensure (i.e., Board of Examiners [LPC, LAC], Board of Psychology [PhD, LPE], Social Work Licensing Board [LCSW, LMSW, LSW], which also monitors professional conduct).~~

3.1611 “NSLA” is the National School Lunch Act.

3.1712 “National School Lunch Students” are those students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the United States Department of Agriculture's National School Lunch Program as determined on October 1 of each previous school year and submitted to the Division, unless the district is a Provision 2 district or a Community Eligibility Provision (CEP) district.

3.1813 “Open Enrollment Public Charter School” is a public school operating under the terms of a charter granted by the State Board of Education pursuant to Ark. Code Ann. § 6-23-101 et seq.

3.1914 “Previous Year” is the school year immediately preceding the current school year.

3.2015 “Professional Development” is a coordinated set of planned learning activities that:

- 3.2015.1 Improve the knowledge, skills, and effectiveness of teachers;
- 3.2015.2 Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;
- 3.2015.3 Lead to improved student academic achievement; and
- 3.2015.4 Are evidence-based, standards-based, and continuous.
- 3.2015.5 Training activities for school bus drivers may also be included.

3.2116 “Provision 2 District” is a school district that is identified by the Division as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a).

3.2217 “Provision 2 District Base Year (Base Year)” is the last school year for which individual student free or reduced-price meal eligibility determinations were made.

3.2318 “School District” or “District” means:

- 3.2318.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:
 - 3.2318.1.1 Governed by an elected board of directors; or
 - 3.2318.1.2 Under the administrative control of the State Board or the Commissioner of Elementary and Secondary Education (hereafter “Commissioner”) in place of an elected board of directors; or
- 3.2318.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

~~3.24 “School Resource Officer” (SRO) is a sworn law enforcement officer assigned to a school to assist with school security, safety, emergency preparedness, emergency response, and other responsibilities assigned by the school or law enforcement agency.~~

3.2519 “School Year” is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.

3.2620 “Students at Risk” are those students demonstrating an ongoing persistent lack of meeting grade-level expectations in literacy and mathematics.

~~3.27 “Social Worker” is someone who has an undergraduate or graduate degree in social work or a related mental health field, and is trained in psychotherapy and social work techniques. Family therapists and employee assistance program counselors are often social workers. Social workers who work in private agencies or independent practice must hold state licenses from the Board of Registration of Social Workers. A Licensed Certified Social Worker (LCSW), Licensed Master Social Worker (LMSW), or a Licensed Social Worker (LSW) may practice in an agency setting under proper supervision. Professional conduct is monitored by the State of Arkansas Social Work Licensing Board.~~

3.2821 “Technology” is any equipment for instructional purposes that is electronic in nature including, but not limited to, computer hardware, computer software, internet connectivity, and distance learning.

4.00 SPECIAL NEEDS - Alternative Learning Environment (ALE)

4.01 ALE General Requirements

4.01.1 Every school district shall provide one (1) or more eligible Alternative Learning Environments (ALE) for all students meeting the criteria of Section 4.02.1 of these Rules, by any of the following methods:

4.01.1.1 A school district may establish and operate an ALE;

4.01.1.2 ~~A school district may cooperate with one (1) or more other school districts in a consortium to~~ of one (1) or more school districts may establish and operate an ALE, with one school district designated as the lead district; or

4.01.1.3 ~~A school district may use~~ Participation in an ALE operated by an education service cooperative established under ~~The Education Service Cooperative Act of 1985, Ark. Code Ann. § 6-13-1001 et seq.; or~~

4.01.1.4 ~~A school district may partner~~ partnership with a state-supported institution of higher education and technical institute to provide concurrent courses and/or technical education options for academic learning to students in grades eight through twelve (8-12).

4.01.1.5 An ALE hybrid program may be established to serve students in grades nine through twelve (9-12). For funding

purposes, FTEs are calculated based on the percentage of on-site instruction for a student in a hybrid program.

4.01.1.6 A school district that provides an ALE through the methods outlined in 4.01.1.2 through 4.01.1.5 remains responsible for all related school services and state reporting requirements.

4.01.2 An ALE shall provide intervention services designed to address students' specific educational and behavioral needs.

4.01.2.1 Intervention services shall include, without limitation, access to the services of a school counselor, a mental health professional, a nurse, and support services substantially equivalent to those provided to other students in the regular educational environment.

4.01.2.2 Intervention services shall be coordinated with state and federal student assistance programs.

4.01.3 An ALE shall not be punitive but shall provide the guidance, counseling, and academic support necessary to enable students who are experiencing emotional, social, or academic problems to continue to make progress toward educational goals appropriate to each individual student's specific situation, characteristics, abilities, and aspirations.

4.02 ALE Student Eligibility and Placement

~~4.02.1 To be an eligible ALE student, a student must exhibit two (2) or more of the characteristics identified in Section 4.02.1.1 and Section 4.02.1.2.~~
To be placed in an ALE, a student must be experiencing or exhibiting two or more of the situations or characteristics below that negatively affect the student's academic and social progress and need innovative programs and strategies that typically cannot be provided through regular school options.
 Students will not be placed in the ALE based on academic problems alone.

~~4.02.1.1 Situations that negatively affect the student's academic and social progress may include, but are not limited to:~~

4.02.1.1.1 Ongoing, persistent lack of attaining proficiency levels in literacy and mathematics;

4.02.1.1.2 Abuse: physical, mental, or sexual;

4.02.1.1.3 Frequent relocation of residency;

- 4.02.1.1.4 Homelessness;
- 4.02.1.1.5 Inadequate emotional support;
- 4.02.1.1.6 Mental/physical health problems;
- 4.02.1.1.7 Pregnancy; or
- 4.02.1.1.8 ~~Single parenting~~ Being a single parent.
- ~~4.02.1.2 Students placed at risk, though intelligent and capable, typically manifest one or more of the following characteristics:~~
 - 4.02.1.2.1 Personal or family problems or situations;
 - 4.02.1.2.2 Recurring absenteeism;
 - 4.02.1.2.3 Dropping out of school; or
 - 4.02.1.2.4 Disruptive behavior.
- 4.02.2 A student may be enrolled in an ALE only on the referral of an Alternative Education Placement Team to be composed of the following individuals:
 - 4.02.2.1 The school counselor from the referring school;
 - 4.02.2.2 The building principal or assistant principal from the referring school;
 - 4.02.2.3 One (1) or more of the student's regular classroom teachers;
 - 4.02.2.4 A local education agency special education or 504 representative, if applicable;
 - 4.02.2.5 A parent or guardian of the student, if they choose to participate; and
 - 4.02.2.6 An ALE administrator or ALE teacher, or both.
 - 4.02.2.7 At the option of the school district, the student may be included as a member of the Alternative Education Placement Team.
 - 4.02.2.8 The school district shall document efforts to contact the parent or guardian to schedule a meeting or a phone call for a

placement meeting at the parent or guardian's convenience, and maintain such documentation in the student's Student Action Plan (SAP).

4.02.3 The ALE program shall:

- 4.02.3.1 Assess the student either before or upon entry into the ALE;
- 4.02.3.2 Provide intervention services designed to address the student's specific educational needs; and
- 4.02.3.3 ~~If the student exhibits one (1) or more of the characteristics identified in Section 4.02.1.2,~~ provide non-punitive intervention services designed to address the student's specific behavioral needs for long-term improvement of the student's ability to control his or her behavior.

4.02.4 No later than one (1) week after a student begins alternative education interventions, the Alternative Education Placement Team shall assess the student's current functioning abilities and all relevant social, emotional, academic, career, and behavioral information and develop a Student Action Plan (SAP) outlining the intervention services to be provided to the student. The Student Action Plan shall contain at a minimum:

- 4.02.4.1 A plan of intervention services to be provided to address the student's specific educational needs and, if appropriate, the student's behavioral needs;
- 4.02.4.2 Goals and objectives necessary to achieve positive reintegration into the regular educational environment;
- 4.02.4.3 Exit criteria on which to base a student's return to the regular educational environment; ~~and~~
- 4.02.4.4 Documentation of the presence of the characteristics listed in ~~Sections 4.02.1.1 and 4.02.1.2~~ Section 4.02.1 for which the student was referred; ~~and~~
- 4.02.4.5 Documentation of the specific ALE programming and supports that will address each identified characteristic or situation causing a barrier to the student's success.
- 4.02.4.56 The Student Action Plan may be revised from time to time by the Alternative Education Placement Team as circumstances warrant.

- 4.02.5 No later than five (5) school days after a student begins alternative education interventions, the Alternative Education Placement Team shall develop a signed agreement between the ALE, the parent or guardian (if they choose to participate), and the student, outlining the responsibilities of the ALE, parent or guardian, and the student to provide assurance that the plan for each student is successful.
- 4.02.6 A positive behavior or transitional plan shall be developed and added to the Student Action Plan prior to a student's return to the regular educational environment.

4.03 ALE Personnel Requirements

- 4.03.1 Administrative, teaching, and other personnel in an ALE shall meet appropriate State licensure and renewal requirements for the positions to which they are assigned.
- 4.03.2 Every classroom in an ALE program shall maintain student/teacher ratios as follows:
 - 4.03.2.1 For grades kindergarten through six (K-6), no more than ten (10) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than twelve (12) to one (1).
 - 4.03.2.2 For grades seven through twelve (7-12), no more than fifteen (15) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than eighteen (18) to one (1).
 - 4.03.2.2.1 For physical education courses that lend themselves to large group instruction, this ratio may be increased up to thirty (30) students to one (1) teacher when a paraprofessional is employed in addition to a licensed teacher.
 - 4.03.2.3 In a middle school where the grade configuration includes grades five (5) or six (6), or both, the student/teacher ratios for grades seven through twelve (7-12) may be applied.
 - 4.03.2.4 For an ALE hybrid program including any of grades nine through twelve (9-12), no more than thirty (30) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than

thirty-five (35) to one (1). However, the number of on-site students on any day shall not exceed the ratios in 4.03.2.2.

4.03.3 An ALE shall establish plans for professional development and in-service training for all licensed personnel working in the ALE in a teaching or administrative capacity.

4.03.3.1 Professional development and in-service training for ALE personnel shall include training in classroom management, and training in additional areas related to the specific needs and characteristics of students in alternative education environments.

4.03.3.2 All licensed personnel working in an ALE shall participate in specific alternative education professional development as part of the six (6) days required annually for licensed personnel by the Division's Rules Governing Professional Development.

4.03.3.3 The Division shall award professional development credit for programs provided under this Section 4.03.4 and approved pursuant to the Division's Rules Governing Professional Development.

4.03.4 Wages, salaries or benefits may be paid out of ALE funds only to the extent of the time devoted by an employee to direct supervision of or direct work in an eligible ALE program.

4.04 ALE Curriculum and Program Requirements

4.04.1 An ALE shall assess each ALE student either before or upon entry into the ALE with effective, research-based assessment tools to determine the student's current academic capability.

4.04.2 An ALE shall provide a curriculum including mathematics, science, social studies, and language arts aligned with the regular classroom instruction. Reading, writing, and mathematics shall be incorporated into all curriculum areas.

4.04.2.1 An ALE shall use the curriculum frameworks adopted by the Division to plan instruction leading to student demonstration of proficiency in the Arkansas Academic Standards.

4.04.3 As an alternative to the curriculum required by Section 4.04.2, an ALE may allow an individual student to instead pursue a curriculum aligned with the standards for high school equivalency tests, subject to the following conditions:

- 4.04.3.1 The student must be sixteen (16) years of age or older;
 - 4.04.3.2 The student must lack sufficient credits to graduate by the time the student turns eighteen (18) years of age; and
 - 4.04.3.3 The student's parent or guardian, or the student if the student is eighteen (18) years of age or older, must consent in writing.
- 4.04.4 Computer-based asynchronous instruction and distance learning programs may be used only as a supplement to direct teacher instruction and must constitute less than forty-nine percent (49%) of total instructional time in any one (1) course. ~~This restriction shall not apply to distance learning or computer-based instruction approved by the Division.~~
- 4.04.4.1 An ALE may use courses or teachers from a digital provider approved by the Division. The instruction provided must be synchronous to be considered direct teacher instruction. The physical classroom must be staffed by a licensed teacher who will monitor, assist, and facilitate as needed, and adhere to the ALE class size ratios identified in 4.03.2.
 - 4.04.4.2 An ALE hybrid program must meet all required components of an ALE program.
 - 4.04.4.2.1 Students in an ALE hybrid program must participate on-site for direct support at least twenty percent (20%) of the total instructional time to be counted for funding.
 - 4.04.4.2.2 A district using an ALE hybrid program must develop clear criteria for monitoring student success to determine the need for additional direct support if there is a lack of expected progress. Additional direct support may include an increased percentage of on-site instruction and additional services and supports.
 - 4.04.4.2.3 An increased percentage of remote instruction, or placement of a student in an ALE hybrid program, should only be used to meet a student's academic and social and emotional goals outlined in the Student Action Plan, not as a punishment or negative consequence.

4.04.4.3 A student receiving fully remote instruction shall not be considered to be part of an ALE program.

4.04.5 All students attending an ALE operated by a consortium of school districts shall follow the lead district's school calendar. All students attending an ALE operated by an education service cooperative shall follow a school calendar designated by the cooperative.

4.04.6 An ALE shall be furnished with the equipment and instructional materials necessary to provide the environment and working conditions appropriate for subjects or activities assigned.

4.04.7 Meals provided at ALE facilities shall follow the Arkansas Child Nutrition guidelines or shall be approved by the Child Nutrition Unit of the Division.

4.04.8 An In-School Suspension (ISS) program for a regular educational environment may not be located in an ALE classroom.

4.05 ALE Program Approval, Reporting, and Monitoring

4.05.1 Each ALE program shall submit to the Division every three (3) years, in electronic format, a program description documenting the program's compliance with Ark. Code Ann. § 6-48-101 *et seq.* and these Rules. Program descriptions are due before March 31 of the year assigned by the Division.

4.05.1.1 ALE programs operating in separate facilities, even if located within the same school district, are deemed to be separate individual programs requiring separate approval and separate reporting.

4.05.1.2 Deviations from prior approved ALE program descriptions must be submitted to the Division for review and formal approval.

4.05.2 On or before March 31, according to a three (3) year cycle established by the Division's ALE Unit, each school district shall submit to the Division, in electronic format, an assurance statement, signed physically or electronically by the superintendent of the district, that the school district is in compliance with Ark. Code Ann. § 6-48-101 *et seq.* and these Rules.

4.05.3 On or before March 31, according to a three (3) year cycle established by the Division's ALE Unit, each ALE program operated by a consortium of school districts or by an education service cooperative shall submit to the Division, in electronic format:

- 4.05.3.1 A list of all school districts participating in the ALE; and
- 4.05.3.2 A copy of the contract agreement or memorandum of understanding governing the ALE program and entered into by the participating school districts and, if applicable, the education service cooperative.
- 4.05.4 Annually, the Division shall compile annual report data for each ALE program utilizing Arkansas Public School Computer Network ("APSCN") student management data. The data compiled shall include:
 - 4.05.4.1 The number of students, subdivided by race, gender, and grade level, enrolled in an ALE program at any time during that school year;
 - 4.05.4.2 The number of students enrolled in an ALE program who returned to the regular educational environment, who dropped out of school, who graduated, or who received a high school equivalency diploma;
 - 4.05.4.3 The number of high school students graduating in that school year who, over their entire grades kindergarten through twelve (K-12) career, were enrolled in an ALE for a total of twenty (20) or more days;
 - 4.05.4.4 The number of students enrolled in an ALE program and participating in Workforce/Secondary Career Centers;
 - 4.05.4.5 The number of students enrolled in an ALE program and receiving special education services;
 - 4.05.4.6 The number of students enrolled in an ALE program who had previously exited an ALE program in the second or third prior school year;
 - 4.05.4.7 The total amount of all funds expended to operate the ALE program for that school year; and
 - 4.05.4.8 The total amount of ALE funding received for that school year.
 - 4.05.4.9 The total number of ALE students per district with grade improvements after beginning the ALE intervention program.
 - 4.05.4.10 The total number of ALE students per district with attendance improvements after beginning the ALE program.

- 4.05.4.11 The total number of ALE high school students per district with improved credit attainment after participating in the ALE intervention program.
- 4.05.5 After June 15 of each year, the Division may direct a district to provide the annual report data required under Section 4.05.4 if the information sought is not readily ascertainable from APSCN student management data.
- 4.05.6 To be eligible for ALE funding under Section 4.06 below, an ALE program shall be approved annually by the Division.
 - 4.05.6.1 Program approval shall be contingent on a satisfactory review of the program description, annual report data, and assurance statement submitted pursuant to this Section 4.05.
 - 4.05.6.2 Program approval shall be for a term of up to three (3) years, running from July 1 or the date of program approval, whichever is later, through June 30 of the designated year.
 - 4.05.6.3 The Division shall give notice of approval or disapproval of an ALE program no later than July 15 of the year of program approval according to the posted three (3) year cycle, contingent on the ALE program timely submitting all required information.
- 4.05.7 Each school district shall submit a description of the ALE program(s) utilized by its students to the Division.
 - 4.05.7.1 Each school district shall evaluate programs supported by ALE funds annually to ensure that the programs are providing a non-punitive environment that is conducive to learning, that eliminates traditional barriers to learning, and that complies with these Rules.
 - 4.05.7.2 The total ALE funds shall be budgeted in the school district's financial management software.
- 4.05.8 As part of the Division's accreditation review of each school district under Ark. Code Ann. § 6-15-202, the Division shall evaluate each ALE to ensure that the ALE is:
 - 4.05.8.1 Established and operated in compliance with these Rules and Ark. Code Ann. § 6-48-101 *et seq.*; and
 - 4.05.8.2 Effective under the measurements established by the Division.

4.05.9 The Division shall identify a school district's noncompliance on the school district's annual report card.

4.05.10 The Division shall identify information concerning best practices for educating students in Alternative Learning Environments and disseminate that information to teachers and administrators working in Alternative Learning Environments.

4.05.11 On or before September 15 of each year, the Division shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:

4.05.11.1 The information reported to it under Section 4.05; and

4.05.11.2 The effectiveness of ALE programs evaluated by the Division.

4.06 ALE Funding

4.06.1 The ALE funding amount shall be the amount authorized by law multiplied by the district's eligible ALE students' full-time equivalents (FTE) in the previous school year as defined in these Rules.

4.06.2 An ALE student shall be counted as no more than one (1) student for ALE funding purposes.

4.06.3 An eligible ALE student's FTE shall be calculated as follows: the sum of (the total number of days an eligible ALE student attends an eligible ALE, plus the total number of days absent while enrolled in an eligible ALE program) divided by the number of school days actually taught in the district's school year.

4.06.3.1 If an eligible ALE student has less than six (6) hours per day of student/teacher interaction time in an eligible ALE, the student's FTE shall be calculated as the result of the calculation in Section 4.06.3 multiplied by the number of hours that student is taught in an eligible ALE each day divided by six (6) hours.

4.06.3.2 In no case shall an eligible ALE student's FTE be calculated as greater than 1.0.

4.06.3.3 If an eligible ALE student is educated in an eligible ALE for fewer than twenty (20) consecutive days, no ALE funding may be paid for that student, unless:

- 4.06.3.3.1 The student leaves the school district to transfer to another eligible ALE and is enrolled in an ALE for a combined total of twenty (20) or more consecutive days; or
- 4.06.3.3.2 The student is placed in a residential treatment program.
- 4.06.3.3.3 No school district may receive ALE funding for an eligible ALE student for any day the student is not enrolled in an eligible ALE in that district.

4.06.4 Each student participating in an ALE hybrid program for the required time specified in 4.04.4.2.1 shall be counted as .5 FTE for funding purposes.

4.06.45 ALE funding is restricted state aid.

4.06.56 ALE funding shall be spent on eligible ALE programs identified in these Rules except as otherwise allowed by law or rule.

4.06.67 ALE funding may be carried over from one fiscal year to the next but these funds shall remain restricted to the priority areas as defined in these Rules except as otherwise allowed by law or rule.

5.00 SPECIAL NEEDS - English Language Learner (ELL)

- 5.01 A school district shall conduct a Home Language Usage Survey for each student upon initial enrollment to identify students that need to be screened for English Language Learner (ELL) status.
- 5.02 The ELL funding amount shall be the amount authorized by law multiplied by the district's identified ELL students in the current school year.
 - 5.02.1 The number of identified ELL students shall be a total of all students identified as not proficient in the English language based upon the statewide Entrance and Exit Procedures criteria, including an approved English proficiency assessment instrument.
 - 5.02.2 The number of identified ELL students used for the funding calculation will be the Cycle 2 data submitted to the Division each school year. Districts must also have a clear APSCN Language Minority Student Error Report in order for funds to be released by the Division.
 - 5.02.3 An ELL student shall be counted as no more than one (1) student for ELL funding purposes.

- 5.03 School districts shall maintain documentation of each student identified as a current or former ELL.
- 5.04 For ELL funding purposes, the state-approved English proficiency assessment is the English Language Proficiency Assessment for the 21st Century (ELPA21), Screener or Summative version.
- 5.05 ELL funding shall be expended for eligible activities including, but not limited to, the following:
 - 5.05.1 Salaries for ELL-skilled instructional services (not supplanting district financial obligations for providing teachers for ELL students).
 - 5.05.2 Funds for teacher training, consultants, workshops, and ELL course work, including ~~DESE~~Division-sponsored training programs.
 - 5.05.3 Released-time for ELL program development.
 - 5.05.4 Selection and purchase of language-appropriate instructional and supplemental (enrichment) materials for ELL students, including computer-assisted technology and library materials.
 - 5.05.5 Language and cultural skills training for school-based health service providers, counseling service providers, and community liaison staff as needed to serve ELL students.
 - 5.05.6 Assessment activities, which include test administration, identification, placement, and review of ELL student academic progress, as well as evaluation activities to determine the effectiveness of the district's ELL program.
 - 5.05.7 Funds for the implementation of supplemental instructional services for ELL students.
- 5.06 ELL funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to those priority areas defined in these Rules except as otherwise allowed by law or rule.
- 5.07 A description and budget of ELL activities and funding shall be included in the district's financial management software.
- 5.08 A public school district shall offer a Language Instruction Educational Program for identified ELL students in accordance with all applicable federal laws and regulations, including without limitation, the Equal Educational Opportunities Act (EEOA), Pub. L. No. 93-380, 20 U.S.C. § 1703, Title VI of the Civil Rights Act

of 1964, 42 U.S.C. § 2000d, and Title III, Part A of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. §§ 6801-6871.

- 5.09 A description of the school district's core ELL plan identifying the district's chosen English Language Development Model and the district's Access to Core Content Program Model shall be submitted to the Division no later than October 1 each year.

6.00 SPECIAL NEEDS - Enhanced Student Achievement Funding

- 6.01 Except as provided in Sections 6.01.5 and 6.01.6.2 of these Rules, enhanced student achievement ~~state categorical~~ funding under Ark. Code Ann. § 6-20-2305(b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under Section 3.21 of these Rules, divided by the district's total enrolled students for the immediately preceding school year. If the school district is a Provision 2 district, this funding is based on the school district's percentage of national school lunch students submitted in the base year, multiplied by the number of enrolled students for the immediately preceding school year. If the school district is a Community Eligibility Provision (CEP) district, this funding is based on the school district's percentage of national school lunch students submitted in the year prior to implementing CEP, multiplied by the number of enrolled students for the immediately preceding school year. If a school district, open-enrollment public charter school, or school within a district or charter is changing from Provision 2 to CEP, the enhanced student achievement ~~state categorical~~ funding percentage used during the final year of Provision 2 will be the enhanced student achievement ~~state categorical~~ funding percentage for the four (4) year CEP cycle and the year following the four (4) year CEP cycle. For determination of the per-student amount of enhanced student achievement ~~state categorical~~ funding, the percentage shall be calculated to one tenth of one percent (0.1%), and rounded up to the nearest whole number from five tenths of one percent (0.5%) or above or down to the nearest whole number from less than five tenths of one percent (0.5%).

- 6.01.1 For school districts in which ninety percent (90%) or greater of the previous school year's enrolled students are national school lunch students, per student enhanced student achievement ~~state categorical~~ funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(i).

- 6.01.2 For school districts in which less than ninety percent (90%) but at least seventy percent (70%) of the previous school year's enrolled students are national school lunch students, per student enhanced student achievement ~~state categorical~~ funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(ii).

- 6.01.3 For school districts in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, per student enhanced student achievement ~~state categorical~~ funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(iii).
- 6.01.4 Districts must participate in the United States Department of Agriculture's National School Lunch Program to receive enhanced student achievement ~~state categorical~~ funding.
- 6.01.5 For an open-enrollment public charter school in its initial year of operation, first year operating under a new license, first year adding a new campus, or in any year in which the charter school adds a grade level, per-student enhanced student achievement ~~state categorical~~ funding under Ark. Code Ann. § 6-20-2305(b)(4) shall be based on the school's current school year enrollment as ~~of October 1~~ verified in Cycle 2.
- 6.01.6 Calculating Percentage of National School Lunch Students for Districts Wherein at Least One School—But Not the Entire District—Uses Provision 2 and/or at Least One School—But Not the Entire District—Uses CEP:
- 6.01.6.1 For some districts, calculating the district's percentage of national school lunch students for any one (1) fiscal year will require combining data from schools in the district, each of which may accept surveys or may use a different method to calculate that school's percentage as a result of that school's participation in Provision 2 or the Community Eligibility Provision (CEP) of the National School Lunch Program. ~~The method for calculating the district-wide percentage of national school lunch students for a district that is composed of at least one school which participates in Provision 2 and/or CEP is detailed using the following examples:~~
- 6.01.6.1.1 ~~In the first example, a school district has two elementary schools, the first of which accepts surveys in the traditional method of calculating its percentage of national school lunch students and the second of which is in its second year of participating in Provision 2. The district's middle school and high school are in the second year of participating in Provision 2.~~

For illustrative purposes:

- ~~Elementary 1—Of an enrollment of 600, 510 are national school lunch students, yielding 85%.~~
- ~~Elementary 2—Enrollment is 500. The Provision 2 base year percentage is 80%.~~
- ~~Middle School—Enrollment is 1,000. The Provision 2 base year percentage is 70%.~~
- ~~High School—Enrollment is 1,200. The Provision 2 base year percentage is 75%.~~
- ~~To calculate the district-level base year percentage, multiply the enrollment of each school participating in Provision 2 by the base year percentage of each of those schools to arrive at counts of eligible national school lunch students at each school (Elementary 2—400; Middle School—700; High School—900). Add the eligible count of all schools together to arrive at the school district eligible count of 2,510 ($510 + 400 + 700 + 900$) and divide by the total school district enrollment of 3,300 to arrive at the district-level base year percentage of 76% (rounded). This will be used as the district's enhanced student achievement state categorical funding percentage for the fiscal year.~~

~~6.01.6.1.2—In the second example, a school district has two elementary schools, both of which accept surveys in the traditional method of calculating the percentage of national school lunch students. Both the district's middle school and high school would have been in the second year of Provision 2 status, but instead are implementing CEP.~~

For illustrative purposes:

- ~~Elementary 1—Of an enrollment of 550, 440 are national school lunch students, yielding 80%.~~
- ~~Elementary 2—Of an enrollment of 400, 220 are national school lunch students, yielding 55%.~~
- ~~Middle School—Enrollment is 800. The Provision 2 base year percentage of 75%~~

will become the school-level CEP base year percentage.

- ~~High School—Enrollment is 1,100. The Provision 2 base year percentage of 80% will become the school-level CEP base year percentage.~~
- ~~To calculate the district-level base year percentage, multiply the enrollment of each school participating in CEP by the base year percentage of each of those schools to arrive at counts of eligible national school lunch students at each school (Middle School—600; High School—880). Add the eligible count of all schools together to arrive at the school-district eligible count of 2,140 ($440 + 220 + 600 + 880$) and divide by the total school-district enrollment of 2,850 to arrive at the district-level base year percentage of 75% (rounded). This will be used as the district's enhanced student achievement state categorical funding percentage for the fiscal year.~~

~~6.01.6.1.3—In the third example, a school district has two elementary schools, the first of which accepts surveys in the traditional method of calculating its percentage of national school lunch students and the second of which is in its second year of participating in Provision 2. The district's middle school would have been in its second year of Provision 2 status, but instead is implementing CEP. The district's high school is in its second year of participating in Provision 2.~~

For illustrative purposes:

- ~~Elementary 1—Of an enrollment of 650, 390 are national school lunch students, yielding 60%.~~
- ~~Elementary 2—Enrollment is 450. The Provision 2 base year percentage is 80%.~~
- ~~Middle School—Enrollment is 900. The Provision 2 base year percentage of 70% will become the school-level CEP base year percentage.~~
- ~~High School—Enrollment is 1,600. The Provision 2 base year percentage is 90%.~~

- ~~To calculate the district-level base year percentage, multiply the enrollment of each school participating in Provision 2 or CEP by the base year percentage of each school to arrive at counts of eligible national school lunch students at each school (Elementary 2—360; Middle School—630; High School—1,440). Add the eligible count of all schools together to arrive at the school-district eligible count of 2,820 (390 + 360 + 630 + 1,440) and divide by the total school-district enrollment of 3,600 to arrive at the district-level base year percentage of 78% (rounded). This will be used as the district's enhanced student achievement state categorical funding percentage for the fiscal year.~~

- 6.01.6.2 If implementing CEP in a year that enhanced student achievement ~~state categorical~~ funding is based on current year ~~October 1~~ Cycle 2 data, open-enrollment public charter schools will be required to accept and report Alternative Income Forms by October 1 from all students in the school to enable calculation of enhanced student achievement ~~state categorical~~ funding. The number of students eligible for enhanced student achievement ~~state categorical~~ funding as determined by the Alternative Income Forms is used to determine the CEP base year percentage. This percentage is used every year of the four (4) year CEP cycle and, if the charter is then-funded using previous year data, the year following the four (4) year CEP cycle.
- 6.01.6.3 For a school district or open-enrollment public charter school that opens a new school that participates in CEP in its first year of operation, district-level enhanced student achievement ~~state categorical~~ funding is calculated using previous year data. For the second year in operation, the school would need to accept and report Alternative Income Forms by October 1 from all students. This would establish the CEP base year percentage for the school that would be in effect for the remainder of the four (4) year CEP cycle and the year following the four (4) year CEP cycle.
- 6.01.6.4 For districts and schools wishing to renew the CEP cycle, during the fourth year of the four (4) year CEP cycle, if there is a difference of five percentage points or greater between the

percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier, and the current enhanced student achievement ~~state categorical~~ funding percentage, then a new enhanced student achievement ~~state categorical~~ funding percentage would need to be calculated. The new percentage would be calculated in the following year (Year Five [5]), by accepting and reporting Alternative Income Forms by October 1. The number of eligible students is divided by the October 1 enrollment. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]). If there is a difference of less than five percentage points between the percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier, and the current enhanced student achievement ~~state categorical~~ funding percentage, then the enhanced student achievement ~~state categorical~~ funding percentage used during the fourth year of the CEP cycle would be used for the following four (4) year CEP cycle and, if renewed, the year immediately following that cycle. ~~The method for calculating the district wide percentage of national school lunch students for a district that experiences a change of at least five percentage points in one direction or the other is detailed using the following examples:~~

6.01.6.4.1 — ~~In the first example, School District A's percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier shows a seven percentage point change over the current enhanced student achievement state categorical funding percentage. To establish a new enhanced student achievement categorical funding percentage, School District A must accept and report Alternative Income Forms by October 1 of Year Five (5). The district reports its number of eligible students, which is then divided by the enrollment from October 1 of Year Five (5) to establish its new district wide percentage of national school lunch students. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]).~~

For illustrative purposes:

- ~~Year Four (current year) — The district-wide percentage was seventy percent (70%), as it had been for the previous three (3) years of the district's CEP cycle. In the April calculations of Identified Students, the district's percentage was reported as seventy-seven percent (77%) after applying the CEP multiplier, triggering the need to accept and report Alternative Income Forms the following year.~~
- ~~Year Five — The district-wide percentage remained at seventy percent (70%) while Alternative Income Forms were accepted and reported by October 1. A new calculation of 1,500 eligible students divided by the enrollment from October 1 of Year Five, totaling 2,000, yielded seventy-five percent (75%) as the new district-wide percentage.~~
- ~~Years Six Through Eight (6-8) and, if Renewed, Year Nine (9) — The district-wide percentage would be seventy-five percent (75%).~~

6.01.6.4.2 — ~~In the second example, School District B's percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier shows an eight percentage point change under the current enhanced student achievement state categorical funding percentage. To establish a new enhanced student achievement state categorical funding percentage, School District A must accept and report Alternative Income Forms by October 1 of Year Five (5). The district reports its number of eligible students, which is then divided by the enrollment from October 1 of Year Five (5) to establish its new district-wide percentage of national school lunch students. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]).~~

For illustrative purposes:

- ~~Year Four (current year) — The district-wide percentage was eighty percent (80%), as it had been for the previous three (3) years of the district's CEP cycle. In the April calculations of Identified Students, the district's percentage was reported as seventy-two percent (72%) after applying the CEP multiplier, triggering the need to accept and report Alternative Income Forms the following year.~~
- ~~Year Five — The district-wide percentage remained at eighty percent (80%) while Alternative Income Forms were accepted and reported by October 1. A new calculation of 1,520 eligible students divided by the enrollment from October 1 of Year Five, totaling 2,000, yielded seventy-six percent (76%) as the new district-wide percentage.~~
- ~~Years Six Through Eight (6-8) and, if Renewed, Year Nine (9) — The district-wide percentage would be seventy-six percent (76%).~~

6.01.6.5 If a school district, open-enrollment public charter school, or school(s) transitions from CEP, the enhanced student achievement ~~state categorical~~ funding percentage used during the last full year the school district, open-enrollment public charter school, or school(s) participated in CEP will be used for the year following the year of discontinuance of CEP.

6.01.6.6 ~~Alternative Income Forms used for enhanced student achievement state categorical funding must have the following information verified:~~

6.01.6.6.1 ~~The minimum standard sample size of three percent (3%) for all Alternative Income Forms approved by the open-enrollment public charter school or school district for the school year, as of October 1 of the school year; and~~

6.01.6.6.2 ~~Income verification procedures concerning income verification used for free and reduced-price meal applications.~~

~~6.01.6.6.3~~ ~~Alternative Income Forms are considered part a student's education record and therefore all confidentiality procedures of the Family Educational Rights and Privacy Act (FERPA) should be followed. Privacy/security procedures concerning free and reduced price meal applications are recommended in relation to the Alternative Income Forms.~~

6.01.6.6 For purposes of enhanced student achievement funding, an Alternative Income Form, developed by the Division and available on the Division's website, will be used any time there is not a meal status established or there is a change in meal status for an individual student.

6.01.6.6.1 For Provision 2 and CEP school districts and schools, an Alternative Income Form will be used in years after the last meal applications were taken by the school district, or for open-enrollment public charter schools, if a school district requests a review of the overall income status of the school district's students.

6.01.6.6.2 Alternative Income Forms shall go through a verification process at the school district that includes, at a minimum, a review of a standard sample size of three percent (3%) of the Alternative Income Forms approved by the open-enrollment public charter school or school district for the school year, as of October 1 of the school year.

6.01.6.6.3 The verification process shall be subject to review by the Division's Child Nutrition Unit and Arkansas Legislative Audit.

6.01.6.6.4 Alternative Income Forms are considered student education records for purposes of the Family Educational Rights and Privacy Act (FERPA) and all applicable confidentiality provisions.

6.01.6.6.5 Alternative Income Forms may be used to determine eligibility for other qualifying programs that require a specific percentage

of NSLA eligibility, provided that the income verification criteria are met.

- 6.02 Except as provided in Section 6.02.3 of these Rules, the district percentage of NSLA eligible students shall be determined from the Arkansas Public School Computer Network's Cycle 2 report for the previous school year.
- 6.02.1 The Child Nutrition Unit of the Division shall verify the Cycle 2 report for accuracy.
- 6.02.2 Adjustments to the Cycle 2 report shall be made by the Division based on documentation provided by the school district.
- 6.02.3 For an open-enrollment public charter school in its initial year of operation, first year operating under a new license, first year adding a new campus, or in any year in which the charter school adds a grade level, the school's percentage of NSLA eligible students shall be determined by the school's certified Cycle 2 free or reduced-price meal eligibility data ~~as reported by October 1 of~~ for the current school year.
- 6.03 Enhanced Student Achievement State Growth Funding:
- 6.03.1 The Division shall use the Cycle 2 enrollment data for the previous four (4) years to calculate a three (3) year trend in district enrollment.
- 6.03.2 If a district has grown at least one percent (1%) for each of the three (3) previous years, it shall qualify for Enhanced Student Achievement State Growth Funding.
- 6.03.3 Districts that qualify for funding shall receive Enhanced Student Achievement State Growth Funding.
- 6.03.4 The funding shall be calculated as the three (3) year average growth in enrollment multiplied by the district's previous year's percentage of students eligible for the United States Department of Agriculture's National School Lunch Program multiplied by the per student funding amount determined in Section 6.01.
- 6.04 Transitional Enhanced Student Achievement State Funding Methods:
- 6.04.1 If a school district would receive, in the current school year, enhanced student achievement ~~state categorical~~ funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) that is based on a different per student amount of enhanced student achievement ~~state categorical~~ funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Division shall

adjust the funding to the school district in a transitional three (3) year period.

- 6.04.2 The amount of enhanced student achievement ~~state categorical~~ funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) shall be increased or decreased in each year of a three (3) year transition period by one-third (1/3) of the difference between the amount of enhanced student achievement ~~state categorical~~ funding per student for the current year and the amount of enhanced student achievement ~~state categorical~~ funding per student for the immediately preceding year, adjusted for changes to the funding rates in Ark. Code Ann. § 6-20-2305(b)(4)(A).
- 6.05 Each school district receiving enhanced student achievement ~~state categorical~~ funds shall use such funds for evidence-based program(s) or purpose(s) for students at risk in order to improve instruction and increase academic achievement of those students. This does not prohibit use of funds in performing schools to continue doing those strategies that are sustaining or enhancing that performance.
- 6.06 Enhanced student achievement ~~state categorical~~ funding shall not be used to meet, ~~or satisfy, or supplant~~ the Arkansas Standards for Accreditation of Arkansas Public Schools and School Districts as required by Ark. Code Ann. § 6-15-201 et seq. or the Arkansas Minimum Teacher Salaries required by Ark. Code Ann. § 6-17-2403 except as otherwise allowed herein.
- ~~6.06.1 Enhanced student achievement state categorical funding shall not be used to supplant the mandatory requirements of the Arkansas Standards for Accreditation required by Ark. Code Ann. § 6-15-201 et seq. unless the expenditure is for the purposes outlined under Section 6.07 of these Rules.~~
- ~~6.06.2 School districts may use enhanced student achievement state categorical funds to pay the salaries of those teachers used to reduce the pupil-to-teacher ratio below the mandates required by the Arkansas Standards for Accreditation of Arkansas Public Schools and School Districts under the following conditions:~~
- ~~6.06.2.1 The district must designate the specific teacher(s) used to reduce the pupil-to-teacher ratios required by the Standards for Accreditation; must explain how the district will use enhanced student achievement state categorical funds to pay only the salaries of those class-size reduction teachers or other teachers whose salaries are designated by the Division as bona fide enhanced student achievement state categorical program or purpose expenditures as allowed by Section 6.07 of these Rules; and must explain how the district will use~~

~~class-size-reduction teachers(s) pursuant to a recognized published evidence-based program to specifically target an identified academic deficiency or need of the district which aligns with and supports the district's needs;~~

~~6.06.2.2—Any district which did not use enhanced student achievement state categorical funds to support the salaries of class-size-reduction teachers by June 30 in the 2006-2007 school year is limited to using enhanced student achievement state categorical funds to support the salaries of only those class-size-reduction teachers in grades kindergarten through eight (K-8), provided the district submits a detailed written plan, as required in Section 6.06.2.1, which is approved by the Division; and~~

~~6.06.2.3—Along with any request to expand or increase from a previous school year the use of enhanced student achievement state categorical funds to pay for or support the salaries of class-size-reduction teachers, the district shall submit a written justification showing how the funds are being used to address an increased academic deficiency or need of the district and is not an attempt to avoid or circumvent the general purpose of reducing the amount of enhanced student achievement state categorical funds used to increase teacher salaries as required and mandated by Ark. Code Ann. § 6-20-2305.~~

~~6.06.2.4—Enhanced student achievement state categorical funds to support the salaries of the class-size-reduction teachers shall be used only to reduce the pupil-to-teacher ratios required by the Standards for Accreditation for each single grade level.~~

6.07 ~~Enhanced student achievement state categorical funding shall be expended for eligible program(s) or purpose(s) that are evidence-based and aligned to the Arkansas Academic Standards for improving instruction and increasing achievement of students at risk of not meeting challenging academic standards needs of the students in the district based on evidence from the district's needs assessment. These programs or purposes include: Eligible expenditures must include strategies to increase student achievement, reduce gaps in achievement among student subgroups, or create conditions that support student learning with a direct tie to improved student outcomes. Eligible expenditure types include, without limitation, personnel, materials, supplies, services, and equipment including technology, to implement or support the purposeful use of funds as outlined in the following categories:~~

~~6.07.1—Employing instructional facilitators or Literacy, Mathematics, or Science Specialists/Coaches (K-12), Data Coaches (K-12), and School~~

Improvement Specialists (K–12) that meet the following requirements:

- 6.07.1.1—~~The Specialists/Coaches and instructional facilitators are educators who assist in curriculum alignment with the Arkansas Academic Standards; alignment of classroom assessment with statewide exams; instructional strategies; professional development and implementation of training; choice of standards-based instructional materials; understanding of current research; advantageous arrangement of the instructional day; and integrating technology into instruction.~~
- 6.07.1.2—~~Qualifications for Specialists/Coaches and instructional facilitators:~~
- ~~• A valid Arkansas teaching certificate;~~
 - ~~• At least four (4) years of recent teaching experience in appropriate content areas within grades kindergarten through twelve (K–12);~~
 - ~~• Knowledge of Arkansas Academic Standards;~~
 - ~~• Knowledge of current research and effective practices in standards-based curriculum, instruction, and assessment;~~
 - ~~• Experience in adult learning situations and in team problem solving; and~~
 - ~~• A bachelor's degree (a master's degree would be preferred);~~
 - ~~or~~
 - ~~• Completion of the required training and teaching components of an alternative teacher preparation program approved by the Division.~~
- 6.07.1.3—~~Qualifications for Data Coaches:~~
- ~~• A valid Arkansas teaching certificate;~~
 - ~~• At least five (5) years of recent teaching experience, administrative experience, or a combination thereof;~~
 - ~~• At least three (3) years of experience using information systems for data retrieval, data reporting, and using data to guide instructional practice;~~
 - ~~• Knowledge of basic statistics and their application;~~
 - ~~• Knowledge and skill of data analysis;~~
 - ~~• Ability to assist building level staff with analysis of school data in preparation of school improvement planning; and~~
 - ~~• A bachelor's degree (a master's degree would be preferred).~~
- 6.07.1.4—~~Qualifications for School Improvement Specialists:~~
- ~~• A valid Arkansas teaching certificate~~
 - ~~• At least five (5) years of recent teaching experience,~~

- ~~administrative experience, or a combination thereof;~~
- ~~• Knowledge of effective coaching practices~~
- ~~• Knowledge of team structures that support shared leadership;~~
- ~~• Knowledge to understand and interpret assessment data, both formal and informal, to inform instructional decisions;~~
- ~~• Ability to orchestrate change; and~~
- ~~• A bachelor's degree (a master's degree would be preferred).~~

~~6.07.2 Providing evidence-based professional development in the areas of literacy, mathematics, or science in grades kindergarten through twelve (K-12) subject to the requirements of the Division's Rules Governing Professional Development;~~

~~6.07.3 Employing classroom teachers who meet the Rules Governing the Arkansas Qualified Teacher Requirements in grades kindergarten through twelve (K-12) pursuant to the restrictions set forth in Section 6.06 of these Rules;~~

~~6.07.4 Providing evidence-based before and after school academic programs, including transportation to and from the programs;~~

~~6.07.5 Providing evidence-based pre-kindergarten programs that meet the program standards as outlined in the Rules Governing the Arkansas Better Chance program;~~

~~6.07.6 Employing tutors:~~

~~6.07.6.1 Tutors must be able to demonstrate competency (as determined locally) in each area where instruction is provided.~~

~~6.07.6.2 Tutors must work under the supervision of classroom teachers who meet the Rules Governing the Arkansas Qualified Teacher Requirements.~~

~~6.07.7 Employing teacher's aides:~~

~~6.07.7.1 Teacher's aides must be highly qualified.~~

~~6.07.7.2 Teacher's aides must work under the direct supervision of classroom teachers who meet the Rules Governing the Arkansas Qualified Teacher Requirements.~~

~~6.07.8 Employing licensed counselors and nurses above the mandates of the Standards for Accreditation of Arkansas Public Schools and School~~

~~Districts or other law or rule;~~

~~6.07.9 Employing Coordinated School Health coordinators;~~

~~6.07.10 Employing Human Service Workers;~~

~~6.07.11 Employing Licensed Mental Health Professionals;~~

~~6.07.12 Employing Licensed Certified Social Workers, Licensed Master Social Workers, or Licensed Social Workers;~~

~~6.07.13 Employing Curriculum Specialists:~~

~~6.07.13.1 The Curriculum Specialists shall meet current licensure requirements that are outlined in the Rules Governing Initial Educator Licensure.~~

~~6.07.14 Employing School Resource Officers (SROs) whose job duties include evidence-based methods and strategies tied to improving achievement of students at risk;~~

~~6.07.15 Providing experience-based field trips;~~

~~6.07.16 Providing parent education that addresses the whole child;~~

~~6.07.17 Providing summer programs that implement evidence-based methods and strategies targeted at closing the achievement gap;~~

~~6.07.18 Providing early intervention programs, to include:~~

~~6.07.18.1 Short term, intensive, focused, individualized, evidence-based instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is beginning, in grades kindergarten through two (K-2), the initial stages of learning social skills, early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor behavior and problem-solving habits which become difficult to change; and~~

~~6.07.18.2 Short term, intensive, focused, individualized, evidence-based instruction developed from ongoing, daily, systematic diagnosis in grades three through twelve (3-12) to prevent failure and close the achievement gap.~~

~~6.07.18.3 Evidence-based Response to Intervention screening and~~

~~associated instruction for students with dyslexia, with intervention components including phonemic awareness, graphophonemic knowledge, the structure of the English language, linguistics, language patterns, and strategies for decoding, encoding, word recognition, fluency, and comprehension.~~

- ~~6.07.19 Obtaining materials, supplies, and equipment, including technology, used in approved instructional programs or for approved purposes in support of the local education agency's general description for ESA funding;~~
- ~~6.07.20 Paying the expenses of federal child nutrition programs to the extent necessary to provide school meals without charge to all students if the school district is identified by the Division as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a);~~
- ~~6.07.21 Paying the expenses of federal child nutrition programs to the extent necessary to provide school meals without charge to students otherwise eligible for reduced-price meals under federal law or regulations governing the United States Department of Agriculture's National School Lunch Program or School Breakfast Program;~~
- ~~6.07.22 Paying expenses directly related to funding a longer school day;~~
- ~~6.07.23 Paying expenses directly related to funding a longer school year;~~
- ~~6.07.24 Partnering with state-supported institutions of higher education and technical institutes to provide concurrent courses and/or technical education options for academic learning to students while those students are still in high school so that the students are college and career ready upon graduation from high school;~~
 - ~~6.07.24.1 Partnerships under Section 6.07.24 shall be evidenced by a written agreement or memorandum of understanding between the school district and the institution of higher education and/or technical institute.~~
- ~~6.07.25 Professional development as identified in the school district's support plan required under Ark. Code Ann. § 6-15-2914;~~
- ~~6.07.26 Implementing components of the Arkansas Advanced Initiative for Math and Science;~~
- ~~6.07.27 Employing College and Career Coaches, as defined by the Division of~~

~~Career and Technical Education;~~

- ~~6.07.28 Operating or supporting a postsecondary preparatory program authorized under Ark. Code Ann. § 6-16-601 et seq.;~~
- ~~6.07.29 Expenditures required under Section 6.05.1 of these Rules;~~
- ~~6.07.30 Paying for students in grades nine through twelve (9-12) to take the ACT Assessment, pursuant to the Voluntary Universal ACT Assessment Program, Ark. Code Ann. § 6-18-1601 et seq.;~~
- ~~6.07.31 Developing and implementing common formative assessments to monitor student progress;~~
- ~~6.07.32 Dyslexia programs and interventions under Ark. Code Ann. § 6-41-601 et seq.; and~~
- ~~6.07.33 Recruiting and retaining effective teachers, if the school district meets the minimum salary schedule under Ark. Code Ann. § 6-17-2403 without using ESA funds, by implementing:~~
 - ~~6.07.33.1 Approaches identified within the school district's support plan required under Ark. Code Ann. § 6-15-2914 to address a disproportionate rate of low-income students or minority students being taught by ineffective teachers, teachers who teach out of their licensure content area, or inexperienced teachers, either within the school district or as compared to surrounding school districts, including without limitation strategies for:~~
 - ~~6.07.33.1.1 Reassignment;~~
 - ~~6.07.33.1.2 Differentiated pay plans to address identified shortage areas; and~~
 - ~~6.07.33.1.3 Addressing teacher recruitment and retention, as recommended by the Division, including without limitation models for effective use of teacher leaders, cultural responsiveness training, and Equity audits.~~
 - ~~6.07.33.1.4 A school district's support plan shall include, without limitation, how the school district identified gaps in equitable access to effective teachers through a review of school district and school-level data, student growth~~

~~data, a root cause analysis, research of the strategies used to address the identified gaps, and the measures of the effectiveness of the strategies used, including without limitation student growth data; and~~

~~6.07.33.2 — Levels of differentiated compensation that increase classroom teacher salaries based on a tiered system of licensure established by the State Board of Education under Ark. Code Ann. § 6-17-402.~~

6.07.1 If the school district meets the teacher compensation requirements according to the minimum salary schedule under § 6-17-2403 for teachers serving in positions required by the Standards for Accreditation of Arkansas Public Schools and School Districts without using enhanced student achievement funding:

6.07.1.1 The hiring of additional teachers for core academic subject areas, as identified in the Division of Elementary and Secondary Education Rules Governing the Arkansas Qualified Teacher Requirements, that are not required by the Standards for Accreditation of Arkansas Public Schools and School Districts;

6.07.1.2 The enhancement of teacher salaries for recruitment and retention purposes or additional compensation for teachers who assume identified leadership roles or additional responsibilities that support student academic achievement;

6.07.2 Academic supports and interventions, including without limitation curriculum specialists, facilitators, tutors, dyslexia interventions, and Response to Intervention;

6.07.3 Social emotional and behavioral supports;

6.07.4 Physical and mental health resources, including without limitation personnel;

6.07.5 Early intervention resources, including without limitation pre-kindergarten programs, school tutoring programs that take place before or after school, and early literacy interventions; and

6.07.6 Access to post-secondary opportunities, including without limitation access to career coaches, concurrent credit courses, college entrance support, and career-readiness support.

6.08 By July 1, 2022, each public school district shall submit a three-year enhanced student achievement plan to the Division describing the school district's intended and implemented strategies to enhance student achievement and how enhanced student achievement funds will be used to support the strategies of the school district as permitted by law and in accordance with these rules.

6.08.1 A school district shall conduct a needs assessment developed by the Division and use district-specific data to identify areas where enhanced student achievement funds need to be directed.

6.08.2 The plan shall specify the categories and types of expenditures, including without limitation personnel, programs, materials, supplies, services, and equipment including technology, the district intends to use to meet the needs identified through the assessment and supported by the data.

6.08.3 The plan shall include goals and measures of success for the areas where enhanced student achievement funds will be directed.

6.08.4 A school district shall provide justification for the use of enhanced student achievement funds in areas not identified by the needs assessment or supported by data.

6.08.5 A school district shall review annually the school district's enhanced student achievement plan and shall review the progress of the school district's enhanced student achievement plan.

6.08.6 The enhanced student achievement plan of a school district shall be updated as necessary by the school district, and amendments to the enhanced student achievement plan shall be submitted annually to the Division with the annual budget of the school district.

6.08.7 The Division shall monitor the implementation and progress of the enhanced student achievement plan of a school district including, without limitation, the categories and types of expenditures for enhanced student achievement funds.

6.08.8 A school district that does not demonstrate progress toward the goals of the enhanced student achievement plan of the school district for three (3) consecutive years may be subject to one (1) or more of the following:

6.08.8.1 Additional monitoring by the Division;

6.08.8.2 An increased level of support as provided in 6-15-2913; or

6.08.8.3 A corrective action plan that shall be developed in collaboration with the Division.

6.08.9 The Division shall provide a report on the progress of school districts in meeting plan goals to the House Committee on Education and the Senate Committee on Education by October 1 of each odd-numbered year, beginning in 2023.

6.089 Use of enhanced student achievement ~~state categorical~~ funds shall be included within the school district's support plan; if required under Ark. Code Ann. § 6-15-2914 and the Rules Governing the Arkansas Educational Support and Accountability Act.

~~6.08.1 The district shall evaluate programs supported by enhanced student achievement state categorical funds annually to ensure that the programs are providing intervention/prevention services designed to increase student achievement.~~

~~6.08.2 The district shall maintain documentation that supports gains in student achievement as measured by the state assessment system.~~

~~6.08.3 The total ESA funds shall be budgeted in the school or school district's financial management software.~~

~~6.09 Enhanced student achievement state categorical funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in these Rules or law except as otherwise allowed by law or rule.~~

6.10 Enhanced student achievement ~~state categorical~~ funding is restricted state aid, except as otherwise allowed by law or rule.

~~6.11 A school district may include in its district support plan, required under Ark. Code Ann. § 6-15-2914, a detailed proposed plan for use of excess enhanced student achievement funds.~~

~~6.11.1 Upon review of a school district's support plan, and any other information~~

~~requested by the Division, if the Commissioner of Education, or designee, determines that the school district has met the needs of students in the district for whom this funding is provided and has prudently managed its resources, the Commissioner shall give written approval of the detailed plan for flexible use of excess enhanced student achievement funds for up to two (2) years.~~

~~6.4211~~ Monitoring and Compliance for Use of ESA Funds:

~~6.4211.1~~ At any time during a school year, the Division may review:

~~6.4211.1.1~~ A school district's support plan;

~~6.4211.1.2~~ Reports and information required by these Rules;

~~6.4211.1.3~~ Test data;

~~6.4211.1.4~~ Financial data; and

~~6.4211.1.5~~ Other indicators of a school district's compliance with these Rules and with the purpose of meeting the needs of students served by enhanced student achievement ~~state categorical~~ funds.

~~6.4211.2~~ Upon review, the Commissioner ~~of Education~~ or his/her designee may take one or both actions allowed by Section 6.12.3 if the Commissioner determines that a school district:

~~6.4211.2.1~~ Has not met the needs of students that may be served by enhanced student achievement ~~state categorical~~ funds;

~~6.4211.2.2~~ Provided false or misleading information; or

~~6.4211.2.3~~ Failed to comply with the provisions of the district's submitted plans without obtaining Division approval.

~~6.4211.3~~ Upon a determination under Section ~~6.4211.2~~ above, the Commissioner ~~of Education~~ may require the school district to redirect the enhanced student achievement ~~state categorical~~ funds to meet other educational needs of the students of that district.

6.12 A school district shall budget one hundred percent (100%) of enhanced student achievement funds each year to provide the supports and resources described in 6.07.

6.12.1 If a school district intends to transfer enhanced student achievement funds

to other programs not described in 6.07, the school district shall provide justification for the transfer of funds to the Division.

- 6.13 By June 30 of each year, a school district shall expend a minimum of eighty-five percent (85%) of the school district's current-year enhanced student achievement ~~state categorical~~ funding allocation in a manner permitted under these Rules.

6.13.1 Enhanced student achievement funding carried over from one fiscal year to the next shall remain restricted to areas as defined in law or these rules unless otherwise allowed by law or rule.

- 6.13.42 A school district that, ~~on June 30, 2012, had~~ on June 30 of any year ~~has~~ an enhanced student achievement ~~state categorical~~ funding balance in excess of fifteen percent (15%) of the school district's current year enhanced student achievement ~~state categorical~~ funding allocation shall reduce its total enhanced student achievement ~~state categorical~~ funding balance by at least ten percent (10%) ~~in each year that follows so that by June 30, 2022, and~~ by June 30 of each year thereafter, the school district has a balance of no more than fifteen percent (15%) of the school district's current year enhanced student achievement ~~state categorical~~ funding allocation.

- 6.13.23 Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Division waive the requirements of this Section 6.13.

6.13.2-13.1 A school district seeking a waiver shall file a waiver request with the Commissioner of Education, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

6.13.2-23.2 The Commissioner ~~of Education~~ may grant a waiver request under this Section 6.13 for up to one (1) year if the Commissioner finds that the request is necessary based upon the unusual and limited circumstances.

- 6.13.34 The Division shall monitor on a yearly basis each school district's compliance with the requirements of this Section 6.13.

- 6.13.45 If a school district fails to comply with the requirements of this Section 6.13 during a school year, the Division may in the following school year withhold from that school district's enhanced student achievement ~~state categorical~~ funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this Section 6.13.

~~6.13.4-15.1~~ The Division may redistribute amounts withheld under this Section 6.13.4~~5~~ to other school districts entitled to receive enhanced student achievement ~~state categorical~~ funding allocations.

6.14 Enhanced Student Achievement Matching Grant Program

6.14.1 A matching grant program has been established for Enhanced Student Achievement expenditures for evidence-based programs to improve the academic achievement of identified national school lunch students. These programs shall be limited to:

6.14.1.1 Tutors ~~as set out in Ark. Code Ann. § 6-20-2305(b)(4)(C)(i)(b)(4);~~

6.14.1.2 Before-school academic programs and after-school academic programs, including transportation to and from the programs ~~under Ark. Code Ann. § 6-20-2305(b)(4)(C)(i)(b)(2);~~ and

6.14.1.3 Prekindergarten programs ~~under Ark. Code Ann. § 6-20-2305(b)(4)(C)(i)(b)(3).~~

6.14.2 Only those expenses coded with the appropriate codes for the allowable uses outlined in Section 6.14.1 will be eligible for matching funds. The allowable program codes to be used when coding expenditures will be published annually by the Division.

6.14.3 Available funding will be distributed to school districts on a dollar-for-dollar matching basis for allowable expenditures *unless* the total of statewide expenditures exceeds the amount of funding allowed by the Act, at which point, funding will be paid on a pro rata matching basis to the districts. For a pro rata basis, a matching percentage will be calculated by dividing each LEAs allowable expenditures by the statewide total of allowable expenditures, and applying that percentage to the amount of funding available in order to determine the funds reimbursed to the district.

6.14.4 In order for the enhanced student achievement matching funds not to be calculated towards the 85% ~~national school lunch~~ enhanced student achievement expenditure requirements in the fiscal year in which the matching funds are received, the funds

must be receipted and expensed using the “ESA Match Grant” fund and revenue code specified by the Division.

- 6.14.5 Matching funds may be used only for the expenses allowed under this program and are meant to supplement, not replace, the districts enhanced student achievement spending.
- 6.14.6 Only expenses incurred from July 1 to June 30 of the previous fiscal year are eligible for reimbursement from any available funding appropriated.
- 6.14.7 By October 15, the Division will publish a commissioner’s memo listing the reimbursements each district is expected to receive.

7.00 SPECIAL NEEDS - Professional Development

- 7.01 The professional development funding amount shall be an amount up to the amount authorized by law multiplied by the district’s ADM of the previous school year.
- 7.02 Professional development funding shall be expended for:
 - 7.02.1 Approved professional development activities and materials, as required by the Teacher Excellence and Support System, Ark. Code Ann. § 6-17-2801 et seq., by other law or rule, or by the school district, that:
 - 7.02.1.1 Improve the knowledge, skills, and effectiveness of teachers;
 - 7.02.1.2 Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;
 - 7.02.1.3 Lead to improved student academic achievement; and
 - 7.02.1.4 Improve the knowledge, skills, and effectiveness of Response-to-Intervention and dyslexia intervention instruction;
 - 7.02.2 Employing instructional facilitators or Literacy, Mathematics, or Science Specialists/Coaches (K-12) as described in these Rules; and
 - 7.02.3 Training for school bus drivers in compliance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.
- 7.03 Districts may expend state professional development funding to provide the requisite hours of professional development required by law or rule.

- 7.04 Professional development funding is restricted state aid. Professional development funding shall be spent on activities identified in these Rules, except as otherwise allowed by law or rule.
- 7.05 Professional development funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in these Rules except as otherwise allowed by law or rule.
- 7.06 Professional development activities and funding shall be included in the district's support plan.
 - 7.06.1 Use of professional development funds shall be included within the school district's support plan. The plan must include how the funds will be spent.
 - 7.06.2 The district shall annually evaluate professional development implementation supported by professional development funds to ensure that:
 - 7.06.2.1 Professional development as implemented by the school or district provides intervention prevention services designed to increase student achievement.
 - 7.06.3 Evaluation data regarding the implementation and effect of professional development and professional growth plans should be utilized in the school improvement process to determine future professional development plans.
 - 7.06.4 The total professional development funds shall be budgeted in the school or school district's financial management software.

8.00 FINANCIAL ACCOUNTING FOR SPECIAL NEEDS STATE FUNDING

- 8.01 After having provided programs designed to meet the needs of students in the respective categorical funding areas, a school district may transfer and expend funds on any of the special needs categories allowed for in these Rules.
- 8.02 Special needs state funding of ALE, ELL, enhanced student achievement, and professional development may be used for any of the expenditures identified in these Rules.
- 8.03 Districts shall report the funds received under each special needs state funding category.
- 8.04 Districts shall report the expenditures of all special needs state funds as required by law, including, but not limited to, fund balances remaining on June 30 of each

year.

- 8.05 The funds received, transferred, expended, and carried over shall balance.
- 8.06 If the Division determines that a district would lose any federal funding due to these explicated expenditure requirements, the special needs state funds may be expended for other academic programs or salaries, as permitted by the Division.

9.00 CATEGORICAL FUND BALANCES

- 9.01 As of June 30 of each school year, the total aggregate balance of all state categorical fund sources shall not exceed twenty percent (20%) of the total aggregate annual state categorical fund allocations for the current school year, except as provided herein.
 - 9.01.1 On June 30 of each school year, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce that total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.
 - 9.01.2 The annual reduction required under Section 9.01.1 shall be a minimum of ten percent (10%) of the total excess balances of all state categorical fund sources.
 - 9.01.3 ESA Matching Grant funds shall not be included when calculating the total aggregate annual state categorical fund allocation.
- 9.02 A school district may transfer funds received from any categorical fund source to another categorical fund source.
- 9.03 The Division shall monitor on a yearly basis each school district's compliance with the requirements of Ark. Code Ann. § 6-20-2305(e) and this Section 9.00.
 - 9.03.1 If a school district fails to comply with the requirements of Ark. Code Ann. § 6-20-2305(e) or this Section 9.00 during a school year, the Division may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of Ark. Code Ann. § 6-20-2305(e) and this Section 9.00.
 - 9.03.2 The Division may redistribute amounts withheld under Ark. Code Ann. §

6-20-2305(e) and this Section 9.00 to other school districts entitled to receive categorical funding allocations.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

EXECUTIVE SUMMARY OF PROPOSED RULES **GOVERNING STUDENT SPECIAL NEEDS FUNDING**

Purpose:

The proposed amendments incorporate the provisions of Act 322 of 2021 concerning enhanced student achievement (“ESA”) (formerly known as national school lunch (“NSL”)) funds and add provisions allowing districts to create an alternative learning environment hybrid program.

Background:

Ark. Code Ann. 6-20-2305 governs the calculation and expenditure of student special needs funds provided to school districts. Over the years, the list of allowable expenditures in law and rule has grown substantially to allow districts the flexibility to identify and meet the specific needs of its students. In 2019, the legislature passed Act 1082, which provided that the list of approved programs established by the state board for the allowable use of ESA funds would expire on June 30, 2022.

Key Points:

- Districts will still have flexibility in the use of ESA funds to meet identified needs in the six categories.
- Needs will be identified based on a review of district-specific data and included as part of the plan for expenditures.
- An ALE hybrid program will allow school districts to continue to serve students who need an alternative setting to receive education but may not be able to attend on-site.

Discussion:

Act 322 of 2021 was passed as a result of Act 1082 of 2019 to eliminate the list of allowable expenditures in Ark. Code Ann. 6-20-2305 and replace it with six broad categories to meet the needs of students for which ESA funds were intended: (1) Teacher salaries; (2) Academic supports and interventions; (3) Social emotional and behavioral supports; (4) Physical and mental health resources; (5) Early intervention resources; and (6) Access to postsecondary opportunities. Amendments to these rules further explain the allowable uses under each of these categories and set forth the requirements for a three-year plan that districts will have to submit detailing the use of ESA funds. This plan will be based on a needs-assessment developed by DESE that uses district data to identify areas of need.

Additional revisions to these rules allow for the use of an alternative learning environment hybrid program that combines on-site and distance learning for students who meet qualifying criteria.

Recommendation:

We recommend that the proposed amendments to the Student Special Needs Funding rules be approved.

Note: Proposed amendments to increase student-teacher ratios in ALE programs were removed after receiving public comment regarding the increase.

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING STUDENT SPECIAL NEEDS FUNDING**

PUBLIC COMMENTS AND AGENCY RESPONSES

Name: Lucas Harder, ASBA

Comment:

~~3.23~~18.1.2: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education”.

If “Commissioner of Elementary and Secondary Education” is parenthetically abbreviated as “Commissioner” here, then the abbreviated title would be able to be used later in the document.

4.01.1.6: I believe that “provide” should be “provides”.

I believe that this should be “through 4.01.1.5” instead of only “4.01.1.4”.

4.02.4.5: As this is supposed to be individualized, I would recommend changing this to read “a barrier to the student’s success”.

5.05.2: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6.3: As the Division has not been previously abbreviated as “DESE”, I would recommend changing “DESE” to “Division”.

6.01.6.6.5: For consistency, “NSL” should be “NSLA”.

6.08: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.6: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.8.1: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.08.8.3: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

~~6.42~~11.2: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at ~~3.23~~18.1.2.

~~6.42~~11.3: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at ~~3.23~~18.1.2.

6.12.1: “Division of Elementary and Secondary Education” can be abbreviated to “Division”.

6.13.23: This should still be citing to “6.13” instead of “6.14”.

~~6.13.2.23.2~~: “Commissioner of Education” should be “Commissioner of Elementary and Secondary Education” or abbreviated to “Commissioner” if previously parenthetically abbreviated to Commissioner at ~~3.23~~18.1.2.

Agency Response: Corrections made.

Name: Shannon Warren, Scranton High School ALE teacher and director, NWA Representative for AAAE

Comment: Concerned about proposed changes to rules and how they will affect ALE educators. Addition of 3.02 – definition of ALE Hybrid Program – students who can learn remotely and be successful are not the students usually in ALE; it is often difficult getting ALE students to do AMI work; students in ALE need to be at school to receive the support and services available; if students want to be in a hybrid or virtual program, there are other options available for that, such as Virtual AR, that wouldn't take away from ALE funds

Agency Response: The proposed 'hybrid model' is already in existence and being used by districts. Adding this to the rules clearly defines protocols for these programs.

Comment: Change to 4.03.2.1 – increases student-teacher ratio for K-6 from 12-to-1 to 15-to-1 – this is an extreme increase that teachers will not be able to handle; recommend leaving at 12-to-1 and requiring a para after 6 for elementary and after 8 for middle school

Agency Response: The initial 10:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the adult to student ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 3, keeping the adult to student ratio 7.5:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Comment: Change to 4.03.2.2 – increases student-teacher ratio for 7-12 from 18-to-1 to 20-to-1; recommend leaving at 18-to-1 and requiring a para after 8 with caseload of 20

Agency Response: The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Comment: Paras are needed in ALE to provide the extra attention and support that student in ALE need; these students often have some of the highest needs

Agency Response: Districts may, and many do, provide additional paraprofessional support as increased needs arise. Comments considered but no changes made at this time.

Comment: It is also recommended that caseloads be added for ALE teachers, similar to how they apply to special education teachers; recommend caseload max of 15 for K-6 and 20 for 7-12

Agency Response: Comments considered but no changes made at this time.

Comment: Currently, 4.04.1 requires an assessment of each ALE student either before or upon entry into the ALE to determine current academic capability; it is recommended that the assessment be require PRIOR to entering the ALE program so staff can accurately determine where to place students and how to serve them; flexibility should be available for exceptional circumstances

Agency Response: Comments considered but no changes made at this time.

Comment: It is recommended that ALE funding not be allowed to be used for teacher salaries, which takes money away from the students who need it most; ALE teacher salaries should be paid from other funds

Agency Response: Districts may, but are not required to, use ALE funding for teacher salaries. Comments considered but no changes made at this time.

Comment: The 3% cap of population for ALE students limits the number of students that can be served, especially in smaller schools, and ends up requiring multiple grade levels in the same classroom; it is recommended that schools with fewer students (maybe less than 1000) have a 5% cap

Agency Response: Comments considered but no changes made at this time.

Comment: The extra requirements, paperwork, and caseloads for ALE teachers already make it difficult to recruit/retain ALE teachers; increasing ratios and adding hybrid programs will make it even more difficult

Agency Response: Comments considered but no changes made at this time.

Name: Mary Eary, AE Director, Batesville School District

Comment: I am the alternative ed director for White River Academy, Batesville School District. I have a concern regarding the possible changing of student ratios. The current 15 to 1 and 18 to 2 is a doable number. Raising the ratio to 20 would have a significant impact on students in regards to their achieving goals. Our student population requires us to be very flexible with giving our students the necessary guidance, tools, and academics to help them reach their goals. Please consider keeping the current ratios in place for the success of the alternative students.

Agency Response: The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after

receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Name: Lori Lamb, AAAE President, Mansfield School District

Comment: The Special Needs Funding rules, highly affect alternative education students and programs. The development of these rules are based on the AR Supreme Court ruling concerning adequacy in education. In alternative education, educators accept all students that are the hardest to reach and most in need according to the school district. The students display a large amount of barriers to learning, deficits socially, emotionally and academically often exist. The intensive interventions required take much relationship building through direct instruction, direct contact, and direct deficit remediation. The students reflect needs equivalent to a range of 4-10 students in comparison to traditional students. Public comment was received from AAAE and other alternative educators during the last round of rules that are dated: July 2020. At that time comments given back were basically wrapped up into a general comment that specific rules discussion will occur in the near future. We were assured consideration to the suggestions will be reviewed, while a group (to include AAAE board members) will meet prior to new rule changes. We are responding to rule changes once again without any current board members being included. The AAAE provides the majority of ALE professional development through the summer conference and regional meetings, through identification of student success and academic performance at the annual Leadership Day at The Capitol. We have continuously operated a strong organization for more than twenty-five years in AR. AAAE membership was highly instrumental in establishing NAEA (National Alternative Education Association) to include their organization documents. AAAE is an active, non-profit state association that represents the membership strongly for the betterment of our hardest to reach students. Please provide a list of meetings and membership included that discussed and helped prepare the new rules for Special Needs Funding. It appears that some of the rules are suggested from the perspective of individuals that are not familiar with what occurs daily in an ALE classroom. The comments included in the pdf attached reference the current mark-up draft; however when copying the draft the line-through and underline did not copy when pasted to the document. You can reference the comments back to your mark-up draft. We look forward to your responses. We are deeply committed to supporting the intensive needs of our hardest to reach students. I am available for further discussion as needed.

Agency Response: This is an introductory paragraph to specific comments below and requires no response.

Comment: 3.02 “Alternative Learning Environment Hybrid Program” is a program that provides ALE services through a combination of on-site and distance learning – The state already allows all districts to provide a combination of these services, students that learn well using this methodology are independent learners with strong academic abilities, they are NOT ALE students. ALE students need many more interventions, much more remediation of skills, much more encouragement and 1:1 face-to-face direct instruction. Recommendation to strike the identification above as ALE. It can remain called a Hybrid Learning Program, just not funded with additional ALE funding when the students are getting less of what a traditional school

offers. It is already allowed (Act 1240). Don't make it a for profit opportunity at the expense of our most vulnerable students. Remove Hybrid or Flexible programs from ALE identification. STRONG Recommendation to remove this identification from ALE Special Needs Funding. The flexibility is already allowed through state waivers for ALL students. This is NOT an ALE. Funding for a distance learning online curriculum costs LESS than the ADM provisions, do not incentivize the misidentification of our neediest students by giving additional funding through ALE.

Agency Response: The proposed 'hybrid model' is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

Comment: 3.06 "Coordinated School Health Coordinator" is an individual that coordinates the implementation of the Whole School, Whole Community, Whole Child (WSCC) model components, facilitates the Wellness Plan, and has a minimum of a bachelor's degree (master's degree preferred) in education, nursing, health services administration, social services, psychology/mental health services, or nutrition. The coordinator will be in addition to other school health staff or positions.

3.07 "Coordinated School Health (CSH)" is an effective system designed to connect health (physical, mental/emotional, and social) with education. This coordinated approach improves students' health and their capacity to learn through the support of families, communities, and schools working together. The CSH approach consists of ten major components. Although these components are listed separately, it is their composite that allows CSH to have significant impact. The ten components include: health education, physical education and physical activity, health services, nutrition environment and services, social and emotional school climate, counseling, psychological, and social services, physical environment, employee wellness, family engagement, and community involvement.

3.15 "Licensed Mental Health Professional (LMHP)" is someone who holds a master's degree from a graduate program in the field of professional mental health services. They may render mental health care services to individuals, families, or groups. LMHPs use therapeutic techniques to define goals and develop treatment plans aimed toward prevention, treatment, and resolution of mental and emotional dysfunction. Mental Health Professionals are licensed by the specific state boards corresponding with their licensure (i.e., Board of Examiners [LPC, LAC], Board of Psychology [PhD, LPE], Social Work Licensing Board [LCSW, LMSW, LSW], which also monitors professional conduct).

3.27 "Social Worker" is someone who has an undergraduate or graduate degree in social work or a related mental health field, and is trained in psychotherapy and social work techniques. Family therapists and employee assistance program counselors are often social workers. Social workers who work in private agencies or independent practice must hold state licenses from the Board of Registration of Social Workers. A Licensed Certified Social Worker (LCSW), Licensed Master Social Worker (LMSW), or a Licensed Social Worker (LSW) may practice in an agency setting under proper supervision. Professional conduct is monitored by the State of Arkansas Social Work Licensing Board.

The above is showing in the mark-up as being stricken from Special Needs Funding rules. Mental Health Therapy services are instrumental to the wellness of the at-risk and highly vulnerable students. This is an integral partnership in meeting the needs of these students. Recommendation to keep the definitions in place or to add additional rule statement defining mental health therapeutic services.

Agency Response: These definitions were removed because the terms are no longer included in the rules. Removal of the definitions does not prohibit a school from using appropriate funds to provide these services or personnel.

Comment: 4.01.1.3 A school district may use Participation in an ALE operated by an education service cooperative established under The Education Service Cooperative Act of 1985, Ark. Code Ann. § 6-13-1001 et seq.; or

A school district that works with an Education Service Cooperative, should stay within the jurisdiction of their cooperative. We have allowed one cooperative to sell their services to districts around the whole state. That cooperative created a “for profit” business according to their own public presentations. The cooperatives are designed to support needs of local districts “within” their regional designation. This is already allowed locally to assist and create a local consortium. The 1985 Act was created prior to many new developments. It was designed to support local cooperative districts, not to become a profitable business. Cooperatives are already paid for by the state, the cooperatives also participate in state insurance and benefits, establishing this large statewide ALE continues to cost the state more concerning insurance and benefits of cooperative employees. This strategic plan benefits the cooperative, not true ALE students. Students that can teach themselves using online curriculum are strong, independent students, NOT true ALE students. The current cooperative ALE design gives less direct instruction, less accountability, less certified educators, less full time employees, less counseling/therapy, less 1:1.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.01.1.5 An ALE hybrid program may be established to serve students in grades nine through twelve (9-12). For funding purposes, FTEs are calculated based on the percentage of on-site instruction for a student in a hybrid program.

An ALE “Hybrid Program” is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE.

Agency Response: The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

Comment: 4.02.3.1 Assess the student either before or upon entry into the ALE;

The Placement Team should gather this information for most accurate decision making prior to a student beginning ALE. Entry to an ALE is strategic and requires much focused attention. Current assessment of skills and needs should occur prior to the committee meeting for consideration of an ALE placement.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.03.2 Every classroom in an ALE program shall maintain student/teacher ratios as follows:

An ALE caseload maximum is needed particularly for small rural school districts where one teacher coordinates multiple grade levels, multiple content instruction, social skills and other needed courses that they are qualified to deliver. Even when students transition back to traditional classes, the ALE teachers still help support student success, work completion and emotional support of the students until they are fully exited from ALE.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.03.2.1 For grades kindergarten through six (K-6), no more than ten (10) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than fifteen (15) to one (1).

Elementary students are the most difficult to provide interventions for due to the way they frequently kick, scream, bite, spit, fight, throw items, try to harm other students, etc. This is the place where the LOWEST numbers are needed. Special Education Behavioral rooms are not readily available, we have elementary students returning from hospitalization or residential care that need a learning environment with few children and flexible learning provided strategically. Often a partnership with Special Education and ALE occurs with these students. Special education has caseload limits, ALE must also. Recommendation for 1:8, NEVER to exceed 8 students and always with a paraprofessional assisting whenever half the classroom capacity (4 students) is exceeded.

Agency Response: The initial 10:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the adult to student ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 3, keeping the adult to student ratio 7.5:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Comment: 4.03.2.2 For grades seven through twelve (7-12), no more than fifteen (15) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than twenty (20) to one (1).

One teacher to fifteen students is the maximum number of students. The paraprofessional may be present whenever the number of students exceeds ten students.

Agency Response: The initial 15:1 student-teacher ratio still applies. The proposed increase would only apply when there is a paraprofessional present. Increasing the student to adult ratio as proposed would allow districts to have flexibility to provide the services and supports needed to students while only increasing the student total by 2, keeping the student to adult ratio 10:1. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Comment: 4.03.2.3 In a middle school where the grade configuration includes grades five (5) or six (6), or both, the student/teacher ratios for grades seven through twelve (7-12) may be applied.

Middle school students are the highest increase of suicide attempts and suicide deaths. During this time of identity issues, students desperately seek acceptance. We MUST recognize and keep closer track of identifying the number of suicide deaths from students enrolled in AR schools. We must help prevent them by providing ample support for these students and families. Jason's Foundation: 12/2021 "In ages 10 – 14, we have seen an alarming increase in suicides. The number of suicides for this group has more than doubled since 2006, making it the second leading cause of death for that age group."

Recommendation: 1:12 students, NEVER to exceed 15 students; with a paraprofessional assisting whenever half the classroom capacity (6 students) is exceeded. REMOVE the grade configuration including (5) or (6) for teacher ratios to match secondary 7-12. Middle School students are recognized nationally and within our state as 6 - 8. This group of students experience prepubescent challenges,

Agency Response: See previous comments about ratios remaining the same.

Comment: American Psychiatric Association: "Some people who are transgender will experience "gender dysphoria," which refers to psychological distress that results from an incongruence between one's sex assigned at birth and one's gender identity. Though gender dysphoria often begins in childhood, some people may not experience it until after puberty or much later." This is a growing area of intervention, a new development throughout our state.

Google Definition: "In the United States, middle school is the period in a student's life that takes place after elementary school and before high school. Typically, the middle school grades are 6th, 7th, and 8th grade, although some school districts include 9th grade in their middle school programs. Sep 17, 2020"

Recommendation to Review the Public Comments submitted prior to the State Board approval in 2020.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.03.2.4 For an ALE hybrid program including any of grades nine through twelve (9-12), no more than thirty (30) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than

Recommendation to fully remove the ALE Hybrid from ALE funding. An ALE “Hybrid Program” is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE funding.

Agency Response: The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

Comment: 4.04.1 An ALE shall assess each ALE student either before or upon entry into the ALE with effective, research-based assessment tools to determine the student’s current academic capability.

Students shall have current academic abilities determined prior to recommendation for the ALE placement.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.04.4.1 An ALE may use courses or teachers from a digital provider approved by the Division. The instruction provided must be synchronous to be considered direct teacher instruction. The physical classroom must be staffed by a licensed teacher who will monitor, assist, and facilitate as needed, and adhere to the ALE class size ratios identified in 4.03.2.

Excellent, unfortunately, many of the “Google Classroom” lessons delivered through a cooperative providing for ALE programs far exceeded hundreds of students on their class enrollment. Teachers for those classes were by name and license, they had multiple additional responsibilities like increasing district enrollment, being director of the programs, completing all legal paperwork, etc. The Regional representatives from the cooperative visited multiple programs weekly, never staying long enough to truly have direct contact with students and programs for consecutive days in a row.

Agency Response: “Google Classroom” lessons are not considered synchronous instruction. Districts should ensure that ALE programs meet requirements of the rules for ALEs.

Comment: 4.04.4.2 An ALE hybrid program must meet all required components of an ALE program.

4.04.4.2.1 Students in an ALE hybrid program must participate on-site for direct support at least twenty percent (20%) of the total instructional time to be counted for funding.

4.04.4.2.2 A district using an ALE hybrid program must develop clear criteria for monitoring student success to determine the need for additional direct support if there is a lack of expected progress. Additional direct support may include an increased percentage of on-site instruction and additional services and supports.

4.04.4.2.3 An increased percentage of remote instruction, or placement of a student in an ALE hybrid program, should only be used to meet a student's academic and social and emotional goals outlined in the Student Action Plan, not as a punishment or negative consequence.

Recommendation to fully remove the ALE Hybrid from ALE funding. An ALE "Hybrid Program" is a traditional program, with independent students that have strong academic skills without the need for much remediation. The Hybrid Program often resembles Credit Recovery which is already allowed. The provision for this group is already paid for allowing ADM funding, additional is not needed. Recommendation that this be stricken fully as a traditional program option, not to receive ALE Special Needs Funding. If it does stay identified as ALE, then the .5 funding should be allowed from ADM, not ALE funding. Recommendation to allow the Hybrid Model of Instructional Delivery for all students using ADM or a portion (.5) of the ADM funding already available. Recommendation to remove ALE Hybrid terminology from Special Needs Funding, these are traditional students, NOT ALE students.

Agency Response: The proposed 'hybrid model' is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

Comment: 4.04.4.3 A student receiving fully remote instruction shall not be considered to be part of an ALE program.

Excellent addition to Special Needs Funding and the intent to provide interventions for our most at-risk and neediest students.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.05.4.2 The number of students enrolled in an ALE program who returned to the regular educational environment, who dropped out of school, who graduated, or who received a high school equivalency diploma;

This appears to be four different indicators of effectiveness. Should it be listed as four different requirements (example 4.05.4.2, 4.05.4.3, 4.05.4.4, 4.05.4.5)

Agency Response: Comments considered but no changes made at this time.

Comment: 4.05.11 On or before September 15 of each year, the Division shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report

on: 4.05.11.1 The information reported to it under Section 4.05; and 4.05.11.2 The effectiveness of ALE programs evaluated by the Division.

Annually, information required is not available until after the deadline which was established prior to the extensive data collection by the state. To increase efficiency for the DESE Division and Alternative Education Division; it is recommended that the date be moved to November 15th or thereafter.

Agency Response: Comments considered but no changes made at this time.

Comment: 4.06.4 Each student participating in an ALE hybrid program for the required time specified in 4.04.4.2.1 shall be counted as .5 FTE for funding purposes.

A “Hybrid” or flexible option of education is clearly allowed now with the pandemic options of AMI, the broad use of Google Classroom, and state supported Virtual Arkansas; as well as other “flexible, online educational deliveries of education. Khan Academy, many online providers of curriculum such as Moby Max, IXL, Apex, etc are being used by school districts. These are provided to all students in the district using ADM (Daily attendance funding per student). It is true that an online delivery with occasional visits to school weekly for minimum contact cost much less for a district than face-to-face direct instruction. Recommendation to not use ALE funds to support the Hybrid model, due to an overlap of funding available. This delivery may continue and be paid for with funding and permission already available, do NOT continue to identify that model as an ALE. Students that do well using all online delivery are independent learners with strong established academic skills. They do not require, or need the additional support for at-risk learners that ALE provides.

Agency Response: The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this definition and requirements to the rules clearly defines parameters for these programs.

Comment: Add this statement to the funding section: “4.07.1 Teacher salaries shall be paid from Average Daily Membership (ADM 3.03).”

ALE funding must be used to provide paraprofessionals, enhanced resources, extensive community/environmental learning experiences, hands on project based/problem based learning STEM opportunities, etc.

Agency Response: Districts may, but are not required to, use ALE funding for teacher salaries. Comments considered but no changes made at this time.

Comment: Small rural districts (defined as less than 1,000 students enrolled total K-12) shall be allowed up to 5% of the student population to be identified as ALE students.

In a small rural district where an elementary, a middle school and a high school program all exist to serve the tremendous needs of poverty, education, death of family members, addiction issues, etc. The total district FTE allowed with 3% population data only covers one educator and one

program. Mixing of K-12 students into one program with one teacher does not follow “age-appropriate” peer relationships and needs. The building configuration in a small rural district (total population under 1,000) must allow at least one educator in ALE per building configuration which may require a 3% - 5% spread for reimbursement of services provided. The 3% has been enforced even though it is not represented in the rules. It has been enforced by “precedence”,

Agency Response: DESE cannot enforce requirements that are not included in law or rules. Comments considered but no changes made at this time.

Comment: STRONG recommendation to allow Small Rural Districts (defined as those with less than 1,000 students) the number to be represented in the rules as “no more than 5% of total population identified. This will then allow a small rural district to have a K-12 continuum of services available concerning ALE. Small rural districts do NOT have the tax millage available in mid size to large districts to amply provide for the needs adequately without this provision. If the 5% is not put into the rules for small rural districts, than a recommendation of full reimbursement that exceeds 3% up to 5% be allowed. It is wrong that small districts meet the needs of the hardest to reach students experiencing homelessness, a lack of food, needing resources, supplies, materials, remediation due to frequent relocations, mental health needs, students experiencing death or incarceration of a parent, addiction issues, etc. by creating an ALE per building configuration (Elementary, Middle and HS), then they are penalized by not being reimbursed for those provisions.

Agency Response: Comments considered but no changes made at this time.

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING STUDENT SPECIAL NEEDS FUNDING**

PUBLIC COMMENTS AND AGENCY RESPONSES

**Name: Shannon Warren, Scranton High School ALE teacher and director, NWA
Representative for AAAE**

Comment: Regarding 4.03 ALE Personnel Requirements

4.03.2.1- 4.03.2.4- Changing the ratios to MORE students to one (1) teacher is insane. Trust me when I say that our plates are already full. Even before COVID, adding more students would have been unwise, but things are much worse than before. At-risk students need even more one-on-one. Our kids need teachers who have the energy, support, resources, and time to invest in each and every one of them. Adding more students takes away those things. I would ask that paraprofessionals be added without raising the numbers of students per teacher. I could really use some help when I am teaching 6 different classes in one class period. I am from a small rural district and I am the only ALE teacher.

Agency Response: The proposed increases would have only applied when there is a paraprofessional present. Increasing the adult to student ratio as proposed would have allowed districts to have flexibility to provide the services and supports needed to students. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Comment: Regarding 4.04 ALE Curriculum and Program Requirements

4.04.4.2 - 4.04.4.2.3

Any student who can spend 80% of school time not in school and still do all their school work and pass, is NOT an ALE student. (Unless the curriculum is dumbed down so far it's a joke.) At-risk students lack the resources, motivation, and support from home that would allow them to be successful in a "Hybrid Program". Why spend ALE dollars supporting a hybrid model when those students could just do Virtual or On-line School? At-risk students need programs which provide the types of encouragement, motivation, and loving support that our in-person, come to school every day ALE programs provide. It seems that someone hit the nail on the head with 4.04.4.2.3. I suspect that item was added because someone realizes that many schools will misuse a "hybrid" model as a way of discarding students who may be most at-risk. Perhaps, ALE teachers need to be seen as a priority in our school system, and they need regular and required training to learn how to better reach/teach students who can be more difficult.

Agency Response: The proposed 'hybrid model' is already in existence and being used by districts. Adding this to the rules clearly defines protocols for these programs.

Name: Tripp Walter, APSRC

Comment: Section 4.06.4: The Division should not be able to arbitrarily and capriciously limit funding for ALE Hybrid students to .5 FTE. These students will still be receiving the same services as non-hybrid ALE students, with personnel who provide ALE services still doing the same things for these students as they do for non-hybrid ALE students.

Agency Response: Ark. Code Ann. 6-20-2305(b)(2)(A)(iii) states that “funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.” Therefore, it is within the State Board’s authority to set forth the method for determining the funding for students in an ALE hybrid program. Students participating in an ALE hybrid program are not on-site full-time and are only required to participate on-site for direct support for 20% of the total instructional time. It is neither arbitrary nor capricious to determine that .5 FTE for a student receiving up to 80% of instruction off-site is appropriate.

Comment: Section 6.01.6.6: Will the new Alternative Income Form be subject to any kind of public review process before its implementation, so schools will know what to expect with the new form and how to utilize it?

Agency Response: The Alternative Income Form will be made available with guidance and direction prior to expected implementation.

Comment: Section 6.13.2: This section, as written, is confusing and does not give clear guidance to its potential users.

Agency Response: This language is identical to Ark. Code Ann. 6-20-2305(b)(4)(E)(ii).

Name: Jon Laffoon, Superintendent, Farmington School District

Comment: Regarding Special Needs Funding, specifically ALE, the section that states 4.06.4 Each student participating in an ALE hybrid program for the required time specified in 4.04.4.2.1 shall be counted as .5 FTE for funding purposes. Many districts use an online platform to serve ALE students, the definition of Hybrid clarifies that as combination- if students are onsite in ALE but using an online platform or LMS districts need clarity on how they would be classified.

Agency Response: The definition of a hybrid program clarifies that it is a combination of on-site and distance learning (off-site). Whether a program is a hybrid program would depend on whether the requirements of an ALE hybrid program are met. An online platform or LMS may be used in a traditional or hybrid model so that is not a determining factor in classifying a student for purposes of funding. The district’s ALE application should identify the type of program it is using, through the program description.

Name: [Redacted name], Student, Scranton Schools

Comment: I'm writing to you as a former ALE student, to address quite a few apparent issues with the recent proposed changes for the Alternative Learning Environment Program. These recent changes include Sections 4.03.2.1 and 4.03.2.2 under ALE Personnel Requirements.

The first noticeable problem under Section 4.03.2.1 is the increase of the student to teacher ratio. A paraprofessional, also known as a teachers aid, is often not trained to take care of the situations that come with ALE students, such as listed under Section 4.02. In smaller schools, such as Scranton, paraprofessionals in regular classrooms are often interchangeable with those in ALE classrooms and are often underprepared for certain challenges. This means that the work and support that these additional students will ultimately fall on the licensed ALE teacher. The teacher will not be able to address each student individually and will not be able to help each student succeed.

Agency Response: The proposed increases would have only applied when there is a paraprofessional present. Increasing the adult to student ratio as proposed would have allowed districts to have flexibility to provide the services and supports needed to students. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

The next issue is the introduction of an ALE Hybrid Program under Section 4.03.2.4 . While this does sound beneficial, in actuality it is not. The ALE program is for “at risk students” such as stated by Section 3.2620 , Section 4.02.1.1, and Section 4.02.1.2 . ALE students often are struggling in school, because of issues at home or behavior that will cause them to not do work unless being monitored. So to have them a home will not benefit them in their education. In all honesty, students in ALE that are able to succeed and thrive with only 20% time on-site instruction, most likely do not belong in the ALE program. This is not to say they may not need additional help and support for other aspects of their lives, but the ALE program is for students who are at risk to fail and drop out of schooling. And if a student can succeed and even thrive by just 20% of ALE time, then they are taking the spot of a student who really needs it.

I simply and sincerely request that you reconsider these troubling policies, as they will negatively affect future ALE students and the support that they receive at school. I can not overstate the important impact that this program has had on my own education. May the positive experience of the ALE program continue for all classes and generations to come.

Agency Response: The proposed ‘hybrid model’ is already in existence and being used by districts. Adding this to the rules clearly defines protocols for these programs.

Name: Frankie Tilley, Mountain Home School District

Comment: I have taught in a kindergarten only alternative learning environment for the last three years. My specific concern surrounds the newly proposed student to teacher ratios.

The students who are placed in my classroom almost always have a deficit in emotional regulation, executive functioning, or appropriate social skills. Students with these deficits in early elementary school, frequently exhibit continuous aggression, self-harm, or high magnitude disruptive behaviors because they have not acquired the skills to self regulate. This means we spend a large amount of time preventing or de-escalating crisis situations in the classroom, requiring two adults at a minimum. These kids are coming into school with less and less public school survival skills, for whatever social or economic reasons. In the last three years, we have helped potty train students, teach them how to have basic communication (some do not know the difference between same/different or yes/no) with others, and provide basic human needs because their home life does not support that. You couple that while also providing foundational reading skills, foundational math skills, state testing, field trips, hands on learning opportunities, and inclusion. Teaching whole group is impossible because of the varying degrees of accommodations needed for each student, so we teach in small groups, which is ineffective in groups larger than 4-5.

A kindergarten classroom with stable functioning students has a teacher /student ratio of 1:20. It would be physically impossible for a early elementary ALE classroom teacher with an aide to effectively manage crises or teach the required and necessary academic, emotional, and social skills with the newly proposed ratios.

Students in ALE programming require more time and support than a traditional student, especially during their foundational reading years (K-3) to ensure they do not fall behind further socially and/or academically. I plead that the committee strongly consider breaking the age groups into the following categories and ratios to safely and effectively deliver the academic and social supports these students desperately need:

K-3: 1:8, NEVER to exceed 8 students at one time with a paraprofessional assisting whenever half the classroom capacity (4 students) is reached.

3-6: 1:10, NEVER to exceed 10 students at one time with a paraprofessional assisting whenever half the classroom capacity (5 students) is reached.

7-12: 1:12, NEVER to exceed 15 total students for the day, with a paraprofessional assisting whenever half the classroom capacity (6 students) is reached.

Agency Response: The proposed increases would have only applied when there is a paraprofessional present. Increasing the adult to student ratio as proposed would have allowed districts to have flexibility to provide the services and supports needed to students. However, upon further consideration after receiving public comment, DESE is removing the proposed increase and leaving the ratios as they currently exist.

Name: Robyn Keene, AAEA

Comment: Sec. 6.07 - The proposed rules name eligible expenditure types of personnel, materials, supplies, and services to implement or support the purposeful use of funds as outlined in the rules.

Recommendation:

The final rule change should include equipment, including technology to implement or support the purposeful use of funds. Please add equipment, including technology to the language in 6.07 regarding eligible expenditure types.

Rationale:

Currently, the assumption is that many schools have the ability to use ESA funds to purchase equipment, including technology. However, in the proposed rules, this is unclear. There needs to be a clear understanding that equipment, including technology, can still be purchased as allowed previously in ESA funding.

Technology equipment has become an integral part of the educational landscape and the inability to use these funds for those purchases will limit the capacity of schools to accomplish the objectives of an ESA plan. This includes Chromebooks, iPads, computers, servers, switches, wifi access points, MiFi hotspots, etc. Schools have been using ESA funds for technology equipment since its inception. The ability to use ESA funds to fund technology equipment is imperative.

Agency Response: Rules revised to include recommended language.

Comment: Sec. 6.08.2 - The proposed rules name eligible expenditure types of personnel, programs, materials, supplies, and services, the district intends to use to meet the needs identified through assessment and supported by the data.

Recommendation:

The final rule change should include equipment, including technology to implement or support the purposeful use of funds. Please add equipment, including technology to the language in 6.08.2 regarding eligible types of expenditures.

Rationale:

Same as the rationale for 6.07 so that there is a clear understanding that equipment, including technology, is an allowable expenditure.

Agency Response: Rules revised to include recommended language.